

ESTTA Tracking number: **ESTTA581751**

Filing date: **01/14/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92053501
Party	Defendant Del Taco, LLC
Correspondence Address	APRIL L BESL DINSMORE SHOHL LLP 255 EAST FIFTH STREET CINCINNATI, OH 45202 UNITED STATES april.besl@dinsmore.com
Submission	Other Motions/Papers
Filer's Name	April L Besl
Filer's e-mail	april.besl@dinsmore.com
Signature	/april l besl/
Date	01/14/2014
Attachments	Cross Exam Testimony - Hallstrom.pdf(8035 bytes ) 6288 - Vol I - Charles Robert Hallstrom - Full.pdf(196950 bytes ) 12.pdf(544628 bytes ) 13.pdf(1103947 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**TRADEMARK TRIAL AND APPEAL BOARD**

CHRISTIAN M. ZIEBARTH,

Petitioner,

vs.

DEL TACO LLC

Respondent.

Reg. No. 1,043,729  
Cancellation No. 92053501

**RESPONDENT DEL TACO LLC'S NOTICE OF FILING  
CROSS-EXAMINATION TESTIMONY OF CHARLES  
ROBERT HALLSTROM AND EXHIBITS**

Pursuant to Rule 703.01 of the Trademark Trial and Appeal Board Manual of Procedure and Trademark Rules 2.123(h), Respondent Del Taco LLC ("Del Taco"), by its counsel, hereby files the cross-examination testimony of Charles Robert Hallstrom and accompanying Exhibits 12-13.

Respectfully Submitted,

Dated: **January 14, 2014**

*/ April L Besl /*

April L. Besl  
Joshua A. Lorentz  
DINSMORE & SHOHL LLP  
255 East Fifth Street  
Cincinnati, Ohio 45202  
(513) 977-8527-direct  
(513) 977-8141-fax  
april.besl@dinslaw.com

*Attorneys for Respondent  
Del Taco LLC*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing was sent by certified first-class mail, with courtesy copy via email, on this 14<sup>th</sup> day of January, 2014, to Kelly K. Pfeiffer, Amezcua-Moll Associations PC, Lincoln Professional Center, 1122 E. Lincoln Ave. Suite 203, Orange, CA 92865.

/ April L Besl /  
April L Besl

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK TRIAL AND APPEAL BOARD

CHRISTIAN M. ZIEBARTH,	)
	)
Petitioner,	)
	)
vs.	) Reg. No. 1,043,729
	)
	) Cancellation No. 92053501
DEL TACO LLC,	)
	)
Respondent.	)
_____	)

CROSS-EXAMINATION DEPOSITION OF:

CHARLES ROBERT HALLSTROM

Thursday, November 21, 2013

Reported by:

Stephanie Leslie

CSR No. 12893

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK TRIAL AND APPEAL BOARD

CHRISTIAN M. ZIEBARTH,  
  
Petitioner,  
  
vs.  
  
Reg. No. 1,043,729  
  
Cancellation No. 92053501  
  
DEL TACO LLC,  
  
Respondent.

The Cross-Examination Deposition of Charles Robert Hallstrom, taken on behalf of the Respondent, before Stephanie Leslie, Certified Shorthand Reporter 12893, for the State of California, commencing at 9:24 a.m., Thursday, November 21, 2013, at 128 East Katella Avenue, Suite 260, Orange, California.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

APPEARANCES:

For Petitioner:

AMEZCUA-MOLL & ASSOCIATES, PC  
By: Kelly Pfeiffer  
Sarah Nowels  
Attorneys at Law  
1122 East Lincoln Avenue, Suite 203  
Orange, California 92865  
(714) 288-2826

For Respondent (appearing via video conference):

DINSMORE & SHOHL  
By: April Besl  
Attorney at Law  
255 East Fifth Street, Suite 1900  
Cincinnati, Ohio 45202  
(513) 977-8527

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I N D E X

Examination by:	Page
Ms. Besl	5

E X H I B I T S

Respondent's	Description	Introduced
12-	Notice of Cross-Examination Deposition	7
13-	Testimony Affidavit of Rob Hallstrom	9

1 Thursday, November 21, 2013, 9:24 a.m.

2 Orange, California

3

4 CHARLES ROBERT HALLSTROM,

5 was called as a witness by and on behalf of the  
6 Respondent, and having been first duly sworn by the  
7 Certified Shorthand Reporter, was examined and  
8 testified as follows:

9

10 EXAMINATION

11 BY MS. BESL:

12 Q All right. Good morning.

13 A Good morning.

14 Q Is it "Hallstrom"?

15 A Yes.

16 Q Okay. Could you state your full name for the  
17 record, please.

18 A Charles Robert Hallstrom.

19 Q Is it any way to get you closer to the  
20 microphone? I'm having trouble hearing you.

21 A There we go.

22 Q Okay. Thank you very much. Mr. Hallstrom, we  
23 haven't been properly introduced. My name is April  
24 Besl. I am counsel for Del Taco, LLC, who is the  
25 respondent in a cancellation proceeding brought by



1 Christian Ziebarth, so it's a pleasure to meet you by  
2 video.

3 A You as well.

4 Q Have you ever had a deposition taken before?

5 A No.

6 Q Okay. Basically, today we're going to be  
7 asking you -- I'm going to be asking you some  
8 questions. This is all being taken down. There's no  
9 video recording being made. So because of that, if you  
10 could, refrain from answering with a nod, shrugging a  
11 shoulder.

12 A Sure.

13 Q Always make sure you give a verbal response.  
14 That would be fantastic.

15 A Sure.

16 Q Now, we are on a video feed, and the only  
17 drawback is occasionally I might not know if you're  
18 done responding, and I might go on to my next question.  
19 If that happens, I'll stop, and you can answer it.  
20 We'll keep this moving. Just appreciate there's a lag,  
21 so to speak.

22 A Okay.

23 Q Now, on occasion the attorneys may be making  
24 some objections. If that's the case, whenever she's  
25 done with her objection, you can answer; and we'll keep

1           it moving forward to get you out of here as fast as we  
2           can.

3           A     Thank you very much. I appreciate that.

4           Q     Excellent.

5                     MS. BESL: First off, could the court  
6           reporter, please, pull out the envelope that's marked  
7           "12." I think we're on Exhibit 12 on my side. If you  
8           could, hand that to the witness.

9                     (Whereupon, Respondent's Exhibit 12 was  
10           marked for identification.)

11          BY MS. BESL:

12           Q     And, Mr. Hallstrom, if you could, identify  
13           what this document is for the record, please.

14           A     It says here the notice of cross-examination  
15           dep for myself.

16           Q     And have you ever seen this document before?

17           A     Yeah. Is this the one that I signed? I  
18           believe this is the one I signed.

19           Q     Did you say this is the one you signed?

20           A     There was one document I signed as part of the  
21           deposition. I don't know if this is it or not.

22           Q     Taking a look at it, this is the notice that  
23           our side gave to take your cross-examination  
24           deposition; is that correct?

25           A     Say that again.

1           Q     The document in front of you -- it says,  
2     "Amended Notice of Cross-Examination Deposition"; is  
3     that correct?

4           A     Yeah. That's what it says,  
5     "Cross-Examination."

6           Q     Okay. So I want to make sure -- this is the  
7     notice that Del Taco served that they wanted to take  
8     this current deposition we're doing; is that correct?

9           A     Yes.

10          Q     Okay. So you haven't seen this before?

11          A     If this is the one that -- yeah.

12          Q     Okay. Thank you. And how did you -- you  
13     learned of this, I presume, through Mr. Ziebarth or  
14     through his counsel, I presume?

15          A     Yes. Yes.

16          Q     And in preparation for this cross-examination  
17     deposition, did you review any documents today?

18          A     I was referring back to my e-mails to refresh  
19     my memory. It's been a few years.

20          Q     When referencing e-mails -- we'll get to that  
21     in a second. Did you do anything else?

22          A     No.

23          Q     And did you talk to anyone about your  
24     deposition today?

25          A     No.

1           Q     Okay. You can set that one aside. I'm done  
2           with that one. If the court reporter could, please,  
3           hand the witness what's in Folder No. 13. I think this  
4           would be Exhibit 13 as well.

5                     MS. PFEIFFER: Do you have that? That's your  
6           testimony.

7                     That's his affidavit. There you go.

8                     THE WITNESS: Yeah.

9                     (Whereupon, Respondent's Exhibit 13 was  
10           marked for identification.)

11           BY MS. BESL:

12           Q     And for the record, could you identify this  
13           document, please.

14           A     Yes. This is the petitioner's testimony  
15           affidavit.

16           Q     Of you, sir?

17           A     I'm sorry?

18           Q     It would be the affidavit that you gave, sir?

19           A     Yes.

20           Q     And you've seen this document before?

21           A     Yes.

22           Q     And on page 3, that is your signature; is that  
23           correct?

24           A     Yes. Yes.

25           Q     Okay. Now, in preparing this affidavit, did

1           you meet with anyone?

2           A     No.

3           Q     Who made this affidavit?

4           A     I did.

5           Q     You wrote all of the words in the affidavit?

6           A     I'm sorry?

7           Q     You wrote everything in the affidavit? This  
8           is your exact wording?

9           A     Yep.

10          Q     No edits were made? No changes were made?

11          A     No.

12          Q     And then I think in this stack, just, we're  
13               going to use these two documents hand in happened, if  
14               the court reporter could pull out -- it should be in  
15               the stack previously marked Exhibit H from the last  
16               deposition. Those two documents, I think, would be  
17               helpful to have in front of the witness.

18               MS. PFEIFFER: Yeah. So these are --  
19               Exhibit H of these documents -- this was the exhibit to  
20               your -- your e-mails that you were looking at.

21               THE WITNESS: Yes.

22               MS. PFEIFFER: That was the exhibit to that.  
23               You know that, so --

24               THE WITNESS: Yes.

25               MS. PFEIFFER: Let me get the court reporter a

1 copy.

2 THE COURT REPORTER: Actually, she said she's  
3 not going to reattach them.

4 MS. PFEIFFER: Oh. She's not? Okay. So I  
5 don't need to hand her -- go ahead. We're good, April.

6 BY MS. BESL:

7 Q Do you have Exhibit H in front of you?

8 A Yes. I have them in front of me.

9 Q And can you identify for the record what  
10 Exhibit H is comprised of?

11 A Past e-mails.

12 Q And these are e-mails between you and  
13 Mr. Ziebarth?

14 A Correct.

15 Q And were these the e-mails that you reviewed  
16 in preparation for today?

17 A I'm sorry?

18 Q Were these the e-mails you reviewed in  
19 preparation for today?

20 A Yeah. These are the ones I was just looking  
21 over.

22 Q Were there any others you reviewed except from  
23 this stack?

24 A No. Just those.

25 Q I need to take you briefly through your

1 affidavit, starting on page 1, paragraph 1. You note  
2 that you co-open three restaurants in Orange County,  
3 California; is that correct?

4 A Yes.

5 Q And these three restaurants are not co-owned  
6 with Mr. Ziebarth; correct?

7 A Correct.

8 Q Okay. And you have never co-owned a  
9 restaurant with Mr. Ziebarth; is that correct?

10 A Correct.

11 Q Okay. And you've never entered into any kind  
12 of venture for a restaurant business with Mr. Ziebarth;  
13 is that correct?

14 A Correct.

15 Q Now, going to paragraph 2, you state that  
16 Mr. Ziebarth first approached you with the idea to  
17 start up a Noggles food business in approximately late  
18 2009 or early 2010; is that correct?

19 A Yes.

20 Q Did he approach you in person?

21 A No. It was via e-mail.

22 Q And these are the e-mails that are attached as  
23 Exhibit H?

24 A Correct.

25 Q Now, you said that -- going further down the

1 paragraph, you said you remembered Noggles very well,  
2 having grown up by the original location in Riverside,  
3 California, and you were interested in helping.

4 A Correct.

5 Q Is that correct?

6 A Yes.

7 Q Now, you've never been an employee of Noggles;  
8 is that correct?

9 A Correct.

10 Q And you've never opened a Noggles restaurant  
11 before; is that correct?

12 A Correct.

13 Q Okay. Just wanted to clarify.

14 Now, you said you were interested in helping.  
15 What did you mean by that?

16 A In helping whatever means I could help to  
17 provide any tips, any advice.

18 Q And when he approached you in late 2009 or  
19 early 2010, did you sign any partnership agreements?

20 A No.

21 Q Did you sign any written documentation stating  
22 that you would provide funding?

23 A No.

24 Q Did you provide any written materials with  
25 regard to these tips or advice you mentioned?



1           A     No.

2           Q     Now, the e-mails that are attached as Exhibit  
3     H -- do these represent the whole of all e-mails  
4     between you and Mr. Ziebarth, or are there others?

5           A     No. This is it.

6           Q     This is it? All right. Thank you.

7                     Now, going on to page 2 of your affidavit, in  
8     paragraph 3, you said you had -- "after this e-mail  
9     exchange with Mr. Ziebarth in January 2010" -- and is  
10    that -- that's, once again, referring to Exhibit H; is  
11    that correct?

12          A     Yes.

13          Q     Okay. You go on to say you had meetings in  
14    person with Mr. Ziebarth about opening a Noggles  
15    restaurant. When did these meetings take place?

16          A     2010. I believe it was 2010.

17          Q     Do you know about the month?

18          A     No, not off the top of my head. I -- it may  
19    have been in one of the e-mails. That may have stated  
20    the day. So we'd have to refer to that e-mail to know  
21    exactly the month.

22          Q     That's fine. I don't want you to -- you don't  
23    have to speculate here. Just to the best of your  
24    memory. That's all I request.

25          A     Sure. I can barely remember what I did last

1 week sometimes.

2 Q All right. You mentioned that you first  
3 discussed the Noggles restaurant, going on in your  
4 affidavit, the night at your cantina; is that correct?

5 A Yes.

6 Q And you said that at that time this -- and "by  
7 that time," you mean sometime in 2010; is that correct?

8 A Yes.

9 Q You were aware of a -- not too far from the  
10 Matador Cantina you remember there being an old Noggles  
11 location; correct?

12 A Yes.

13 Q I am reading off of your affidavit that you  
14 are informed and believe that it was now a restaurant  
15 called the Golden Ox, O-x?

16 A Yes.

17 Q And who informed you that that is now a Golden  
18 Ox?

19 A Well, I knew it was the Golden Ox because I  
20 live down the street, so I see it all the time.

21 Q So you personally observed it was now a Golden  
22 Ox?

23 A Yes.

24 Q Okay. Thank you. You say that you were  
25 informed -- going forward to paragraph 3, you said you

1           were informed and believe that customers of the Golden  
2           Ox --

3           A     Can you repeat the question?

4           Q     I'll redo the question, if that works for you.  
5           Going into paragraph 3 of your affidavit, you state, "I  
6           am informed and believe that customers of the Golden Ox  
7           have commented how the restaurant that used to be a  
8           place called Noggles"; is that correct?

9           A     Yes.

10          Q     And who informed you of that fact?

11          A     I believe it was the manager.

12          Q     The manager of the Golden Ox?

13          A     Yes.

14          Q     And was that verbally, or was that in writing?

15          A     That was verbal.

16          Q     Next sentence: Between January of 2010 and  
17          May of 2010, you and Mr. Ziebarth had many more  
18          discussions about potential locations for his Noggles  
19          restaurant, and you listed a few properties; is that  
20          correct?

21          A     Yes.

22          Q     And what were these locations?

23          A     One was down the street from Golden Ox, and  
24          another -- we talked about some locations in Riverside,  
25          potentially.

1           Q     You said several places -- I'm sorry?

2           A     One was in Fullerton, and one was in  
3     Riverside.

4           Q     Now, when you discussed these locations, were  
5     they available for rent offer purchase?

6           A     No. It wasn't -- to my knowledge, it wasn't  
7     any available real estate; it was just, like, you know,  
8     plots of land and that sort of thing, street corners  
9     that I -- they seemed to be busy street corners. Very  
10    vague. It was nothing more than that.

11          Q     So no concrete plans in place to go and  
12    purchase a piece of property; right?

13          A     Yes. It was very vague. It was kind of just  
14    very exploratory, if anything.

15          Q     Was there a defining concept that you and  
16    Mr. Ziebarth talked about? For example, a food truck  
17    versus a stand-alone restaurant?

18          A     There was some talk about a food truck, but  
19    nothing was really defined.

20          Q     And during this time did you create any  
21    documents yourself regarding potential locations for  
22    this Noggles restaurant?

23          A     No.

24          Q     Did you supply Mr. Ziebarth with any business  
25    plans or examples that he could use for this

1 restaurant?

2 A No. Again, everything was all very  
3 exploratory.

4 Q And this was all between January and May of  
5 2010?

6 A Correct.

7 Q You also mentioned at the end of paragraph 3  
8 in your affidavit, "we also did a little research into  
9 old Noggles locations"; is that correct?

10 A Correct.

11 Q And that would be you and Mr. Ziebarth; is  
12 that correct?

13 A Correct.

14 Q You said you did a little research into the  
15 old Noggles location; correct?

16 A Correct.

17 Q And that would be you and Mr. Ziebarth?

18 A Yes.

19 Q And what did you mean by "a little research"?

20 A Mostly like Google searches; finding out, you  
21 know, where Noggles had been; that sort of thing, at  
22 least on my side.

23 Q Now, did you personally go and speak to any  
24 Del Taco employees about Noggles?

25 A No.

1           Q     Did you personally go to the various Noggles  
2 locations you identified in your research?

3           A     Say that last part again.

4           Q     Did you personally go to any of the Noggles  
5 locations you identified in your research?

6           A     Yeah. I believe I went to the one in  
7 Riverside.

8           Q     Any others in the state of California?

9           A     No.

10          Q     Any others outside of the state of California?

11          A     No.

12          Q     I'd like to -- you can put that affidavit  
13 aside for now. If you could, turn to Exhibit H. I'd  
14 like to ask you some questions there.

15          A     Sure.

16          Q     Turning to page 3 of this exhibit with the  
17 black number at the bottom, there's an e-mail at the  
18 bottom of the chain that's dated December 9, 2009. Do  
19 you see that one?

20                MS. PFEIFFER: April, can we hold on a second?

21                MS. BESL: Sure.

22                MS. PFEIFFER: Can we go off the record for a  
23 second?

24                (A discussion was held off the record.)

25

1 BY MS. BESL:

2 Q If you could, turn to page 3 -- and it's the  
3 black "3" at the bottom. If you could, turn to page 3.

4 A Yes.

5 Q There's an e-mail from Wednesday, December 9,  
6 2009, at 7:13 p.m.

7 A Uh-huh.

8 Q And is this e-mail from you to Mr. Ziebarth?

9 A Yes.

10 Q Now, you say, "Christian, can we, please, post  
11 this on your site."

12 A Yes.

13 Q What are you referring to there?

14 A I, most likely, was referring to a photo  
15 related to Matador Cantina.

16 Q So it was not related to the Noggles venture?

17 A No. No.

18 Q Is this how you knew Mr. Ziebarth prior to  
19 this venture?

20 A Correct.

21 Q And when you say his site, are you referring  
22 to the blog that he maintains?

23 A Yes.

24 Q And would you have Mr. Ziebarth do advertising  
25 for your restaurants?

1           A     No.  He would do blog posts.

2           Q     And this would be about food at your  
3 restaurants?

4           A     I'm sorry?

5           Q     It would be about food at your restaurants?

6           A     Yeah.  There would be mentions of food,  
7 correct.

8           Q     Did you ever do a blog post with Mr. Ziebarth  
9 about Noggles?

10          A     No.

11          Q     Have you ever done any kind of Web site with  
12 Mr. Ziebarth about Noggles?

13          A     No.

14          Q     Have you ever done any kind of marketing for  
15 Mr. Ziebarth in connection with his Noggles venture?

16          A     No.

17          Q     One other question.  On this e-mail there are  
18 some redactions.  I would assume -- would it be correct  
19 to state that this is your e-mail address, your contact  
20 information?

21          A     Correct.

22          Q     All right.  If you could, turn to page 5 of  
23 this same exhibit.

24          A     Yes.

25          Q     Now, there's an e-mail at the top from you to



1 Mr. Ziebarth, dated May 27th, 2010; is that correct?

2 A Yes.

3 Q And you state, "Let's meet up to discuss my  
4 official involvement"; is that correct?

5 A Correct.

6 Q And this is your official involvement with  
7 Mr. Ziebarth's Noggles venture?

8 A Correct.

9 Q And what was your official involvement in May  
10 of 2010?

11 A There wasn't any.

12 Q And by the end of 2010, what was your official  
13 involvement with the venture?

14 A None.

15 Q In 2011, at the end of that year, what was  
16 your official involvement?

17 A None.

18 Q At the end of 2012, what was your official  
19 involvement?

20 A None.

21 Q And to date do you have any official  
22 involvement with Mr. Ziebarth's Noggles venture?

23 A No.

24 Q And why is that?

25 A It's just never materialized. Nothing ever

1           came about of it.

2           Q     The Noggles venture or your interest?

3           A     Anything.

4           Q     Now, in this same e-mail chain Mr. Ziebarth  
5           tells you that he has filed an Intent to Use  
6           application for the Noggles trademark; is that correct?  
7           Same page, next line.

8           A     Yes.

9           Q     Now, did you advise Mr. Ziebarth with respect  
10          to his trademark application?

11          A     I -- no, I don't believe I did on that. I  
12          advised him on a few things, but I don't remember if I  
13          advised him on that one.

14          Q     Turning now to page 6, the next page on this  
15          document --

16          A     Yes.

17          Q     -- there's an e-mail dated April 5th, 2010,  
18          from Christian Ziebarth to you; is that correct?

19          A     Yes.

20          Q     Now, at the bottom of that first paragraph it  
21          states, "They also didn't know what the combo cut was  
22          there and didn't know that the bun taco was originally  
23          a Noggles item"; is that correct?

24          A     Yes.

25          Q     And according to the text of this, do you

1 understand this to be discussing a Del Taco location  
2 that was previously a Noggles in Riverside?

3 A Yes.

4 Q And so this e-mail is referring to food items  
5 currently served by Del Taco that were originally  
6 Noggles items; is that correct in your understanding?

7 A Correct.

8 Q And is it your personal understanding that  
9 other items that were originally Noggles items are  
10 currently sold by Del Taco?

11 A You know, that's not something I'm currently  
12 aware of. I don't really follow Del Taco's menu.

13 Q But at the time when this e-mail was sent in  
14 April of 2010, you were aware such items were being  
15 sold?

16 MS. PFEIFFER: Isn't this from Christian?

17 THE WITNESS: Yeah. I don't remember that at  
18 all.

19 MS. PFEIFFER: A belated objection here that  
20 that misstates his testimony. This is an e-mail from  
21 Christian, not him, so he's just speculating as far as  
22 what he thinks Mr. Ziebarth is referring to.

23 MS. BESL: Understood.

24 BY MS. BESL:

25 Q And, again, I only want your personal

1 knowledge.

2 A Yeah. No, I don't recall any knowledge of  
3 Del Taco's menu or any relation to the former Noggles  
4 menu.

5 Q If you could, turn to page 9 of this exhibit.

6 A Yeah.

7 Q Okay. Thank you. There's an e-mail there  
8 dated Tuesday, March 9, 2010, at 9:19 a.m. Do you see  
9 this e-mail?

10 A What was the date?

11 Q March 9, 2010.

12 A Yes.

13 Q And this was an e-mail sent by you to  
14 Mr. Ziebarth; is that correct?

15 A Yes.

16 Q And you state, "So it seems he wants to be  
17 associated by name only"; is that correct?

18 A Yes.

19 Q And who are you referring to here?

20 A I believe it was Jeff.

21 Q And that would be Jeff Noggle?

22 A Yes.

23 Q And have you ever met Jeff Noggle before?

24 A No.

25 Q Have you ever discussed the Noggles venture

1 with Jeff Noggle?

2 A No.

3 Q So any knowledge you would have would  
4 potentially have come from Mr. Ziebarth or someone  
5 else?

6 A Correct.

7 Q And when you said here, "It seems he wants to  
8 be associated by name only," what were you referring  
9 to?

10 A Having his name associated.

11 Q With the Noggles venture?

12 A Correct.

13 Q And is it your understanding that Mr. Noggle,  
14 in March of 2010, did not want to be associated  
15 directly with the venture?

16 MS. PFEIFFER: Objection, misstates the  
17 evidence.

18 Go ahead.

19 THE WITNESS: Yeah. I don't know about that.

20 BY MS. BESL:

21 Q Now, you next say to Mr. Ziebarth, "If this is  
22 the case, you should be president of the corporation";  
23 is that correct?

24 A Yes.

25 Q At the time, to your knowledge, had

1 Mr. Ziebarth formed a corporation for his venture?

2 A No.

3 Q Had he formed any kind of limited liability  
4 corporation?

5 A No.

6 Q Had he formed any kind of partnership?

7 A Nope. Nothing whatsoever.

8 Q And you were advising him to do so; is that  
9 correct?

10 A Correct.

11 Q And what was the reasoning behind advising him  
12 to form a corporation at the time?

13 A Just as an advisory; just giving him some  
14 helpful tips, as I mentioned before.

15 Q Next it states, "Look at it as sort of a  
16 licensing of his Noggles name from a credibility  
17 standpoint"; is that correct?

18 A Yes.

19 Q And you're referring there to Jeff Noggle; is  
20 that correct?

21 A Correct.

22 Q And it was your advice that Mr. Ziebarth  
23 should license the Noggles name from Jeff Noggle; is  
24 that correct?

25 A I'm not sure. Did I advise that? I'd have to

1 refer back to the e-mail here.

2 Q Take your time. Take a look.

3 A Yeah. I don't see that here.

4 Q Then what did you mean by "look at it as sort  
5 of a licensing of the Noggles name from a credibility  
6 standpoint"?

7 A Well, his name is well-known for people who  
8 remember Noggles restaurants.

9 Q Now, at the time you were aware that Del Taco  
10 opened the Noggles trademark; is that correct?

11 MS. PFEIFFER: What? I'm sorry. What was the  
12 question?

13 BY MS. BESL:

14 Q At the time you were aware that Del Taco owned  
15 the Noggles trademark; is that correct?

16 A I was not officially aware of that. That was,  
17 I believe, told to me by Christian. But I've never  
18 done any research to find out if Del Taco officially  
19 owned it.

20 Q So you have no independent knowledge --

21 A Correct.

22 Q -- of the ownership of the Noggles trademark?

23 A Correct.

24 Q One second. If you could, go back to the  
25 first page of this e-mail.

1           A     Yeah.

2                   MS. PFEIFFER:  The whole thing?

3       BY MS. BESL:

4           Q     Or this e-mail chain of this exhibit.  There's  
5       an e-mail dated January 12, 2010, at 8:32 a.m.  Do you  
6       see this e-mail?

7                   MS. PFEIFFER:  What page are you on, April?

8                   MS. BESL:  The first page, page 1.

9                   MS. PFEIFFER:  Oh.  The first page of the  
10       whole exhibit?

11                   MS. BESL:  Yeah.  Yes.

12       BY MS. BESL:

13           Q     There's a black "1" at the bottom.

14           A     Yes.

15           Q     Okay.  And this is an e-mail that you wrote to  
16       Mr. Ziebarth?

17           A     Yes.

18           Q     And you say in the second sentence, "I would  
19       see about buying rights to the name from Del Taco"; is  
20       that correct?

21           A     Yes.

22           Q     So this understanding about ownership of the  
23       name "Noggles" by Del Taco -- that came from  
24       Mr. Ziebarth; is that correct?

25           A     Correct.



1 Q And you were advising him to buy the rights  
2 from Del Taco; is that correct?

3 A Correct.

4 Q Now, on the same page, going to the next  
5 e-mail on the chain, dated January 11th, 2010, can you  
6 confirm that this is an e-mail from Mr. Ziebarth to  
7 you?

8 A On the same page?

9 Q Yes, page 1 in the black numbering.

10 A And what time?

11 Q 10:07 p.m. on January 11.

12 A 10:07? Oh, yes.

13 Q And this is an e-mail from Mr. Ziebarth to  
14 you?

15 A Yes.

16 Q And he says here, "I think I will work with  
17 some people that have some taco trucks, then, because  
18 it might be best to try the concept out with a food  
19 truck first"; is that correct?

20 A Yes.

21 Q And does this go along with your earlier  
22 testimony that there was some discussion about the  
23 varying concepts that could be used?

24 A Uh-huh.

25 Q Is that a "yes"?

1           A     Yes.

2           Q     Thank you.  Were there any other concepts that  
3           were discussed between you and Mr. Ziebarth?

4           A     No.

5           Q     So it was mainly a food truck versus a  
6           stand-alone restaurant?

7           A     Correct.

8           Q     Thank you.  Now, as of May 2010, to your  
9           knowledge, had Mr. Ziebarth obtained any operating  
10          capital?

11          A     Not to my knowledge.

12          Q     As of May 2010, to your knowledge, had he  
13          obtained any partners in a potential Noggles venture?

14          A     Not to my knowledge.

15                MS. PFEIFFER:  Just a belated objection that  
16          the last two questions are outside the scope of direct.

17          BY MS. BESL:

18          Q     Going forward, if you could, turn to the  
19          black-numbered page 11 of this exhibit.

20          A     Okay.

21          Q     Now, you say -- actually, for identification,  
22          if you could, go back to page 10.  I think this  
23          e-mail's split across two pages.  There's an e-mail  
24          header at the bottom of page 10, dated March 4th, 2010;  
25          is that correct?

1           A     Yes.

2           Q     And would it be correct that this e-mail

3           spills onto page 11 as well?

4           A     Yes.

5           Q     And so this is an e-mail from you to

6           Mr. Ziebarth; is that correct?

7           A     Which particular e-mail? The one that spills

8           over?

9           Q     Yes.

10          A     It looks like --

11          Q     On March 4th.

12          A     It looks like it originated from -- yeah, it

13          looks like it was from me.

14          Q     Okay. Now, at the bottom of this e-mail, in

15          the last sentence you say, "The new corp. could have a

16          board of directors, maybe listing Jeff as president,

17          you as VP, et cetera. I'm obviously interested in

18          being on board as well"; is that correct?

19          A     Correct.

20          Q     But as of the end of 2010, you were not a

21          member of any organization formed by Mr. Ziebarth?

22          A     Correct.

23          Q     And that holds true in 2011?

24          A     Correct.

25          Q     2012?

1 A Correct.

2 Q And then 2013?

3 A Correct.

4 Q Okay. Did you ever discuss the concept of a  
5 trademark abandonment with Mr. Ziebarth?

6 A Yes, in an e-mail.

7 Q And what was the substance of that discussion,  
8 to your memory?

9 A Something about if a company doesn't use their  
10 trademark or if it expires -- basically, that was the  
11 gist of the conversation.

12 Q And are you personally -- you are not an  
13 attorney; is that correct?

14 A Correct.

15 Q And have you ever taken any trademark law  
16 classes?

17 A No. I've just heard, and I've read about  
18 trademark expirations.

19 Q And when you had this discussion, was this in  
20 2010?

21 A I believe so, if that's what the e-mail was.

22 Q Did you ever agree to provide financial  
23 backing for Mr. Ziebarth's Noggles venture?

24 A No.

25 Q And to date, you have not provided any

1 financial backing for Mr. Ziebarth's venture?

2 A Correct.

3 Q To date -- I may have asked this before. If I  
4 did, I apologize. To date have you supplied any  
5 marketing advice or consultation to Mr. Ziebarth for  
6 this venture?

7 A No.

8 Q All right. We need to take a quick  
9 five-minute break. Let me make sure I've got  
10 everything, but we might be about done.

11 MS. PFEIFFER: Okay.

12 (A short break in the proceedings was  
13 taken.)

14 MS. BESL: Back on the record.

15 BY MS. BESL:

16 Q Mr. Hallstrom, who asked for you to give an  
17 affidavit in this proceeding?

18 A Well, it was the representation of Christian,  
19 Christian's law office.

20 Q Christian's attorney?

21 A Yeah.

22 Q Okay. And was there -- without going into any  
23 privilege or any of those issues, what was the purpose  
24 of your affidavit today? What were you asked to  
25 discuss?

1           A     Say that -- what's the question?

2           Q     What was the purpose of your affidavit?  What  
3     were you asked to discuss?

4           A     What was I asked to discuss?  Oh.  Things  
5     relevant to the things that Christian and I discussed.

6           Q     And was there a certain date period given, or  
7     just in general?

8           A     Just in general.

9           Q     Now, since May of 2010, have you had continued  
10    discussions with Mr. Ziebarth?

11          A     Since May 2010?  Yes, off and on.

12          Q     Regarding the Noggles venture or other things?

13          A     Noggles and also other things.  We still talk  
14    about, you know, his blog and things.

15          Q     When you talk about the Noggles venture, do  
16    you offer further advice, or is it more of an update?  
17    What are the discussions?

18          A     What I'm referring to is stuff that we've  
19    e-mailed back and forth, which is basically any sort of  
20    advice or tips.

21          Q     So after the last e-mail in the chain, has  
22    there been any in-person discussion?

23                MS. PFEIFFER:  Objection, outside the scope of  
24    direct.

25                You can answer.

1 THE WITNESS: We had a few times that we  
2 talked in person.

3 BY MS. BESL:

4 Q And were these about the Noggles venture or  
5 other things?

6 A Once -- yeah, once or twice we talked about  
7 Noggles.

8 Q And during these meetings did you agree to be  
9 officially involved or not?

10 A No.

11 Q Has Mr. Ziebarth recently asked you to make a  
12 final contribution to the Noggles venture?

13 A No.

14 MS. PFEIFFER: Just a belated objection that  
15 this line of questioning is outside the scope of  
16 direct.

17 Go ahead.

18 BY MS. BESL:

19 Q And you have not offered to make any type of  
20 financial contributions; correct?

21 A Correct.

22 Q Going back briefly to your affidavit, if I  
23 may, Exhibit 13.

24 MS. PFEIFFER: Page 13 of the e-mails?

25 MS. BESL: No. Exhibit 13, page 3.

1 MS. PFEIFFER: You're right.

2 THE WITNESS: This one?

3 MS. PFEIFFER: Yes.

4 BY MS. BESL:

5 Q That should be your affidavit.

6 A Yes.

7 Q All right. And your last paragraph of your  
8 affidavit states you personally testified to the fact  
9 that in the early 1990s the Noggles locations you had  
10 been to in Orange County and Riverside were now only  
11 known as Del Taco; is that correct?

12 A Correct.

13 Q And these are locations that you have  
14 personally been to and observed that they are now  
15 Del Tacos?

16 A Correct.

17 Q And just for clarification, you have never  
18 spoken to any Del Taco employees about Noggles; is that  
19 correct?

20 A Correct.

21 Q And you've never spoken to any Del Taco  
22 representatives about Noggles; is that correct?

23 A Correct.

24 Q Okay. And you next say in this affidavit on  
25 paragraph 4, "I am informed and believe the very last



1 Noggles restaurant closed in 1994 or 1995"; correct?

2 A Yes.

3 Q And who informed you of this?

4 A I used to live in Riverside, so I remember  
5 when they closed.

6 Q Yes, but regarding "the very last Noggles  
7 restaurant closing in 1994 or 1995" -- who informed you  
8 of that fact?

9 A Oh. Friends of mine.

10 Q And who was that?

11 A I'm sorry?

12 Q Who was the friend?

13 A I don't remember, but it was most likely  
14 friends of mine that told me. I still have friends  
15 that live in Riverside.

16 Q So when you say, "the very last Noggles  
17 restaurant closed," you're only referring to Orange  
18 County and Riverside, California?

19 A Only Riverside, yes.

20 Q Okay. So this was not meant to be Noggles as  
21 a whole; correct?

22 A Correct.

23 Q So this doesn't speak to locations  
24 outside of -- different areas outside of California or  
25 outside of the state?

1           A     Yeah. I don't have any knowledge of anything  
2     like that.

3           Q     And just for clarification, you've done no  
4     investigation as to Del Taco's use of the Noggles mark?

5           A     Correct.

6           Q     And you have no opinion in that regard; is  
7     that correct?

8           A     Correct.

9           Q     And then just one more -- two last questions.  
10    Have you ever discussed the Noggles venture with a Josh  
11    Maxwell?

12          A     No.

13          Q     And have you ever discussed the Noggles  
14    venture of Mr. Ziebarth with a Daniel Dvorak?

15          A     No.

16                MS. BESL: Kelly, I think that about wraps me  
17    up. Do you want any redirect?

18                MS. PFEIFFER: No questions.

19                MS. BESL: Okay. All right. Thank you so  
20    much. I hope you will not be late.

21                THE WITNESS: Thank you very much. Have a  
22    good day.

23                MS. BESL: Thank you. You, too.

24                MS. PFEIFFER: April, do you want to put into  
25    place the same stipulation that we put into place at

1 the end of Christian's?

2 MS. BESL: I think that sounds fantastic.

3 MS. PFEIFFER: Perfect.

4

5 (Whereupon, the stipulation from the  
6 deposition of CHRISTIAN M. ZIEBARTH was  
7 entered into as follows:

8 "MS. NOWELS: Back on the record. So  
9 we've agreed off record to a stipulation  
10 that the court reporter will be relieved  
11 of her duties under the Code. The  
12 transcript will be released to the offices  
13 of Amezcua-Moll & Associates at 1122 East  
14 Lincoln Avenue, Suite 203, in Orange,  
15 California 92865, for purposes of review  
16 by the witness; and Amezcua-Moll &  
17 Associates will agree to maintain the copy  
18 of the original and produce it if it's  
19 ever needed for any future proceedings.  
20 We'll also agree that a certified copy or  
21 copies of the transcript may be used in  
22 proceedings, so long as they're redacted  
23 to the extent that they're confidential.  
24 And we're also stipulating that the  
25 transcript will be produced and reviewed

1                   along normal time frames so the witness  
2                   will review it within 30 days of receipt.  
3                   So stipulated?

4                               "MS. BESL: Agreed.")

5

6                   (Whereupon, the deposition was concluded at 10:22 a.m.)

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

PENALTY OF PERJURY

I, \_\_\_\_\_, do hereby declare under penalty of perjury that I have read the foregoing transcript; that I have made any corrections as appear noted, in ink, initialed by me, or attached hereto; that my testimony as contained herein, as corrected, is true and correct.

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
at \_\_\_\_\_, \_\_\_\_\_.  
(City) (State)

\_\_\_\_\_  
CHARLES ROBERT HALLSTROM

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CERTIFICATE  
OF  
CERTIFIED SHORTHAND REPORTER

\* \* \* \*

The undersigned Certified Shorthand Reporter  
of the State of California does hereby certify:

That the foregoing Proceeding was taken before  
me at the time and place therein set forth.

That the testimony and all objections made at  
the time of the Proceeding were recorded  
stenographically by me and were thereafter transcribed,  
said transcript being a true and correct copy of the  
proceedings thereof.

In witness whereof, I have subscribed my name,  
this date: DECEMBER 2, 2013.


STEPHANIE LESLIE, CSR No. 12893

<b>A</b>	<b>appreciate</b> 6:20 7:3	31:15 36:14	40:15 43:8	<b>commented</b> 16:7
<b>a.m</b> 2:19 5:1	<b>approach</b> 12:20	<b>believe</b> 7:18	<b>called</b> 5:5 15:15	<b>company</b> 33:9
25:8 29:5 41:6	<b>approached</b>	14:16 15:14	16:8	<b>comprised</b> 11:10
<b>abandonment</b>	12:16 13:18	16:1,6,11 19:6	<b>cancellation</b> 1:9	<b>concept</b> 17:15
33:5	<b>approximately</b>	23:11 25:20	2:8 5:25	30:18 33:4
<b>address</b> 21:19	12:17	28:17 33:21	<b>cantina</b> 15:4,10	<b>concepts</b> 30:23
<b>advertising</b>	<b>April</b> 3:10 5:23	37:25	20:15	31:2
20:24	11:5 19:20	<b>Besl</b> 3:10 4:3	<b>capital</b> 31:10	<b>concluded</b> 41:6
<b>advice</b> 13:17,25	23:17 24:14	5:11,24 7:5,11	<b>case</b> 6:24 26:22	<b>concrete</b> 17:11
27:22 34:5	29:7 39:24	9:11 11:6	<b>certain</b> 35:6	<b>conference</b> 3:9
35:16,20	<b>areas</b> 38:24	19:21 20:1	<b>CERTIFICATE</b>	<b>confidential</b>
<b>advise</b> 23:9	<b>aside</b> 9:1 19:13	24:23,24 26:20	43:1	40:23
27:25	<b>asked</b> 34:3,16,24	28:13 29:3,8	<b>certified</b> 2:17	<b>confirm</b> 30:6
<b>advised</b> 23:12,13	35:3,4 36:11	29:11,12 31:17	5:7 40:20 43:3	<b>connection</b>
<b>advising</b> 27:8,11	<b>asking</b> 6:7,7	34:14,15 36:3	43:7	21:15
30:1	<b>associated</b> 25:17	36:18,25 37:4	<b>certify</b> 43:8	<b>consultation</b>
<b>advisory</b> 27:13	26:8,10,14	39:16,19,23	<b>cetera</b> 32:17	34:5
<b>affidavit</b> 4:9 9:7	<b>Associates</b> 3:4	40:2 41:4	<b>chain</b> 19:18 23:4	<b>contact</b> 21:19
9:15,18,25	40:13,17	<b>best</b> 14:23 30:18	29:4 30:5	<b>contained</b> 42:8
10:3,5,7 12:1	<b>assume</b> 21:18	<b>black</b> 19:17 20:3	35:21	<b>continued</b> 35:9
14:7 15:4,13	<b>attached</b> 12:22	29:13 30:9	<b>changes</b> 10:10	<b>contribution</b>
16:5 18:8	14:2 42:7	<b>black-number...</b>	<b>Charles</b> 1:16	36:12
19:12 34:17,24	<b>attorney</b> 3:11	31:19	2:15 5:4,18	<b>contributions</b>
35:2 36:22	33:13 34:20	<b>blog</b> 20:22 21:1	42:15	36:20
37:5,8,24	<b>attorneys</b> 3:5	21:8 35:14	<b>Christian</b> 1:6	<b>conversation</b>
<b>agree</b> 33:22 36:8	6:23	<b>board</b> 1:3 2:2	2:5 6:1 20:10	33:11
40:17,20	<b>available</b> 17:5,7	32:16,18	23:18 24:16,21	<b>copies</b> 40:21
<b>agreed</b> 40:9 41:4	<b>Avenue</b> 2:20 3:6	<b>bottom</b> 19:17,18	28:17 34:18	<b>copy</b> 11:1 40:17
<b>agreements</b>	40:14	20:3 23:20	35:5 40:6	40:20 43:14
13:19	<b>aware</b> 15:9	29:13 31:24	<b>Christian's</b>	<b>corners</b> 17:8,9
<b>ahead</b> 11:5	24:12,14 28:9	32:14	34:19,20 40:1	<b>corp</b> 32:15
26:18 36:17	28:14,16	<b>break</b> 34:9,12	<b>Cincinnati</b> 3:12	<b>corporation</b>
<b>Amended</b> 8:2		<b>briefly</b> 11:25	<b>City</b> 42:11	26:22 27:1,4
<b>Amezcu-Moll</b>	<b>B</b>	36:22	<b>clarification</b>	27:12
3:4 40:13,16	<b>B</b> 4:6	<b>brought</b> 5:25	37:17 39:3	<b>correct</b> 7:24 8:3
<b>answer</b> 6:19,25	<b>back</b> 8:18 28:1	<b>bun</b> 23:22	<b>clarify</b> 13:13	8:8 9:23 11:14
35:25	28:24 31:22	<b>business</b> 12:12	<b>classes</b> 33:16	12:3,6,7,9,10
<b>answering</b> 6:10	34:14 35:19	12:17 17:24	<b>closed</b> 38:1,5,17	12:13,14,18,24
<b>apologize</b> 34:4	36:22 40:8	<b>busy</b> 17:9	<b>closer</b> 5:19	13:4,5,8,9,11
<b>APPEAL</b> 1:3 2:2	<b>backing</b> 33:23	<b>buy</b> 30:1	<b>closing</b> 38:7	13:12 14:11
<b>appear</b> 42:6	34:1	<b>buying</b> 29:19	<b>co-open</b> 12:2	15:4,7,11 16:8
<b>APPEARANC...</b>	<b>barely</b> 14:25		<b>co-owned</b> 12:5,8	16:20 18:6,9
3:1	<b>basically</b> 6:6	<b>C</b>	<b>Code</b> 40:11	18:10,12,13,15
<b>appearing</b> 3:9	33:10 35:19	<b>California</b> 2:18	<b>combo</b> 23:21	18:16 20:20
<b>application</b> 23:6	<b>behalf</b> 2:16 5:5	2:20 3:6 5:2	<b>come</b> 26:4	21:7,18,21
23:10	<b>belated</b> 24:19	12:3 13:3 19:8	<b>commencing</b>	22:1,4,5,8 23:6
		19:10 38:18,24	2:18	23:18,23 24:6

24:7 25:14,17 26:6,12,23 27:9,10,17,20 27:21,24 28:10 28:15,21,23 29:20,24,25 30:2,3,19 31:7 31:25 32:2,6 32:18,19,22,24 33:1,3,13,14 34:2 36:20,21 37:11,12,16,19 37:20,22,23 38:1,21,22 39:5,7,8 42:9 43:14 <b>corrected</b> 42:8 <b>corrections</b> 42:6 <b>counsel</b> 5:24 8:14 <b>County</b> 12:2 37:10 38:18 <b>court</b> 7:5 9:2 10:14,25 11:2 40:10 <b>create</b> 17:20 <b>credibility</b> 27:16 28:5 <b>cross-examina...</b> 1:15 2:15 4:8 7:14,23 8:2,5 8:16 <b>CSR</b> 1:23 43:21 <b>current</b> 8:8 <b>currently</b> 24:5 24:10,11 <b>customers</b> 16:1 16:6 <b>cut</b> 23:21	23:17 25:8 29:5 30:5 31:24 <b>day</b> 14:20 39:22 42:10 <b>days</b> 41:2 <b>December</b> 19:18 20:5 43:17 <b>declare</b> 42:4 <b>defined</b> 17:19 <b>defining</b> 17:15 <b>Del</b> 1:9 2:8 5:24 8:7 18:24 24:1 24:5,10,12 25:3 28:9,14 28:18 29:19,23 30:2 37:11,15 37:18,21 39:4 <b>dep</b> 7:15 <b>deposition</b> 1:15 2:15 4:8 6:4 7:21,24 8:2,8 8:17,24 10:16 40:6 41:6 <b>Description</b> 4:7 <b>different</b> 38:24 <b>DINSMORE</b> 3:10 <b>direct</b> 31:16 35:24 36:16 <b>directly</b> 26:15 <b>directors</b> 32:16 <b>discuss</b> 22:3 33:4 34:25 35:3,4 <b>discussed</b> 15:3 17:4 25:25 31:3 35:5 39:10,13 <b>discussing</b> 24:1 <b>discussion</b> 19:24 30:22 33:7,19 35:22 <b>discussions</b> 16:18 35:10,17 <b>document</b> 7:13 7:16,20 8:1	9:13,20 23:15 <b>documentation</b> 13:21 <b>documents</b> 8:17 10:13,16,19 17:21 <b>doing</b> 8:8 <b>drawback</b> 6:17 <b>duly</b> 5:6 <b>duties</b> 40:11 <b>Dvorak</b> 39:14	<b>evidence</b> 26:17 <b>exact</b> 10:8 <b>exactly</b> 14:21 <b>Examination</b> 4:2 5:10 <b>examined</b> 5:7 <b>example</b> 17:16 <b>examples</b> 17:25 <b>Excellent</b> 7:4 <b>exchange</b> 14:9 <b>EXECUTED</b> 42:10 <b>exhibit</b> 7:7,9 9:4 9:9 10:15,19 10:19,22 11:7 11:10 12:23 14:2,10 19:13 19:16 21:23 25:5 29:4,10 31:19 36:23,25 <b>expirations</b> 33:18 <b>expires</b> 33:10 <b>exploratory</b> 17:14 18:3 <b>extent</b> 40:23	<b>five-minute</b> 34:9 <b>Folder</b> 9:3 <b>follow</b> 24:12 <b>follows</b> 5:8 40:7 <b>food</b> 12:17 17:16 17:18 21:2,5,6 24:4 30:18 31:5 <b>foregoing</b> 42:5 43:9 <b>form</b> 27:12 <b>formed</b> 27:1,3,6 32:21 <b>former</b> 25:3 <b>forth</b> 35:19 43:10 <b>forward</b> 7:1 15:25 31:18 <b>frames</b> 41:1 <b>friend</b> 38:12 <b>friends</b> 38:9,14 38:14 <b>front</b> 8:1 10:17 11:7,8 <b>full</b> 5:16 <b>Fullerton</b> 17:2 <b>funding</b> 13:22 <b>further</b> 12:25 35:16 <b>future</b> 40:19
<b>D</b> <b>D</b> 4:1 <b>Daniel</b> 39:14 <b>date</b> 22:21 25:10 33:25 34:3,4 35:6 43:17 <b>dated</b> 19:18 22:1	<b>discussing</b> 24:1 <b>discussion</b> 19:24 30:22 33:7,19 35:22 <b>discussions</b> 16:18 35:10,17 <b>document</b> 7:13 7:16,20 8:1	<b>E</b> <b>E</b> 4:1,6 <b>e-mail</b> 12:21 14:8,20 19:17 20:5,8 21:17 21:19,25 23:4 23:17 24:4,13 24:20 25:7,9 25:13 28:1,25 29:4,5,6,15 30:5,6,13 31:23 32:2,5,7 32:14 33:6,21 35:21 <b>e-mail's</b> 31:23 <b>e-mailed</b> 35:19 <b>e-mails</b> 8:18,20 10:20 11:11,12 11:15,18 12:22 14:2,3,19 36:24 <b>earlier</b> 30:21 <b>early</b> 12:18 13:19 37:9 <b>East</b> 2:19 3:6,11 40:13 <b>edits</b> 10:10 <b>employee</b> 13:7 <b>employees</b> 18:24 37:18 <b>entered</b> 12:11 40:7 <b>envelope</b> 7:6 <b>estate</b> 17:7 <b>et</b> 32:17	<b>F</b> <b>fact</b> 16:10 37:8 38:8 <b>fantastic</b> 6:14 40:2 <b>far</b> 15:9 24:21 <b>fast</b> 7:1 <b>feed</b> 6:16 <b>Fifth</b> 3:11 <b>filed</b> 23:5 <b>final</b> 36:12 <b>financial</b> 33:22 34:1 36:20 <b>find</b> 28:18 <b>finding</b> 18:20 <b>fine</b> 14:22 <b>first</b> 5:6 7:5 12:16 15:2 23:20 28:25 29:8,9 30:19	<b>G</b> <b>general</b> 35:7,8 <b>gist</b> 33:11 <b>give</b> 6:13 34:16 <b>given</b> 35:6 <b>giving</b> 27:13 <b>go</b> 5:21 6:18 9:7 11:5 14:13 17:11 18:23 19:1,4,22 26:18 28:24 30:21 31:22 36:17 <b>going</b> 6:6,7 10:13 11:3 12:15,25 14:7



15:3,25 16:5 30:4 31:18 34:22 36:22 <b>Golden</b> 15:15,17 15:19,21 16:1 16:6,12,23 <b>good</b> 5:12,13 11:5 39:22 <b>Google</b> 18:20 <b>grown</b> 13:2	<b>independent</b> 28:20 <b>information</b> 21:20 <b>informed</b> 15:14 15:17,25 16:1 16:6,10 37:25 38:3,7 <b>initialed</b> 42:7 <b>ink</b> 42:7 <b>Intent</b> 23:5 <b>interest</b> 23:2 <b>interested</b> 13:3 13:14 32:17 <b>introduced</b> 4:7 5:23 <b>investigation</b> 39:4 <b>involved</b> 36:9 <b>involvement</b> 22:4,6,9,13,16 22:19,22 <b>issues</b> 34:23 <b>item</b> 23:23 <b>items</b> 24:4,6,9,9 24:14	17:7 18:21 23:21,22 24:11 26:19 35:14 <b>knowledge</b> 17:6 25:1,2 26:3,25 28:20 31:9,11 31:12,14 39:1 <b>known</b> 37:11	11:20 <b>looks</b> 32:10,12 32:13	26:16 <b>month</b> 14:17,21 <b>morning</b> 5:12,13 <b>moving</b> 6:20 7:1
<b>H</b>	<b>J</b>	<b>L</b>	<b>M</b>	<b>N</b>
<b>H</b> 4:6 10:15,19 11:7,10 12:23 14:3,10 19:13 <b>Hallstrom</b> 1:16 2:16 4:9 5:4,14 5:18,22 7:12 34:16 42:15 <b>hand</b> 7:8 9:3 10:13 11:5 <b>happened</b> 10:13 <b>happens</b> 6:19 <b>head</b> 14:18 <b>header</b> 31:24 <b>heard</b> 33:17 <b>hearing</b> 5:20 <b>held</b> 19:24 <b>help</b> 13:16 <b>helpful</b> 10:17 27:14 <b>helping</b> 13:3,14 13:16 <b>hereto</b> 42:7 <b>hold</b> 19:20 <b>holds</b> 32:23 <b>hope</b> 39:20	<b>January</b> 14:9 16:16 18:4 29:5 30:5,11 <b>Jeff</b> 25:20,21,23 26:1 27:19,23 32:16 <b>Josh</b> 39:10	<b>lag</b> 6:20 <b>land</b> 17:8 <b>late</b> 12:17 13:18 39:20 <b>law</b> 3:5,11 33:15 34:19 <b>learned</b> 8:13 <b>Leslie</b> 1:23 2:17 43:21 <b>Let's</b> 22:3 <b>liability</b> 27:3 <b>license</b> 27:23 <b>licensing</b> 27:16 28:5 <b>limited</b> 27:3 <b>Lincoln</b> 3:6 40:14 <b>line</b> 23:7 36:15 <b>listed</b> 16:19 <b>listing</b> 32:16 <b>little</b> 18:8,14,19 <b>live</b> 15:20 38:4 38:15 <b>LLC</b> 1:9 2:8 5:24 <b>location</b> 13:2 15:11 18:15 24:1 <b>locations</b> 16:18 16:22,24 17:4 17:21 18:9 19:2,5 37:9,13 38:23 <b>long</b> 40:22 <b>look</b> 7:22 27:15 28:2,4 <b>looking</b> 10:20	<b>maintain</b> 40:17 <b>maintains</b> 20:22 <b>making</b> 6:23 <b>manager</b> 16:11 16:12 <b>March</b> 25:8,11 26:14 31:24 32:11 <b>mark</b> 39:4 <b>marked</b> 7:6,10 9:10 10:15 <b>marketing</b> 21:14 34:5 <b>Matador</b> 15:10 20:15 <b>materialized</b> 22:25 <b>materials</b> 13:24 <b>Maxwell</b> 39:11 <b>mean</b> 13:15 15:7 18:19 28:4 <b>means</b> 13:16 <b>meant</b> 38:20 <b>meet</b> 6:1 10:1 22:3 <b>meetings</b> 14:13 14:15 36:8 <b>member</b> 32:21 <b>memory</b> 8:19 14:24 33:8 <b>mentioned</b> 13:25 15:2 18:7 27:14 <b>mentions</b> 21:6 <b>menu</b> 24:12 25:3 25:4 <b>met</b> 25:23 <b>microphone</b> 5:20 <b>mine</b> 38:9,14 <b>misstates</b> 24:20	<b>name</b> 5:16,23 25:17 26:8,10 27:16,23 28:5 28:7 29:19,23 43:16 <b>need</b> 11:5,25 34:8 <b>needed</b> 40:19 <b>never</b> 12:8,11 13:7,10 22:25 28:17 37:17,21 <b>new</b> 32:15 <b>night</b> 15:4 <b>nod</b> 6:10 <b>Noggle</b> 25:21,23 26:1,13 27:19 27:23 <b>Noggles</b> 12:17 13:1,7,10 14:14 15:3,10 16:8,18 17:22 18:9,15,21,24 19:1,4 20:16 21:9,12,15 22:7,22 23:2,6 23:23 24:2,6,9 25:3,25 26:11 27:16,23 28:5 28:8,10,15,22 29:23 31:13 33:23 35:12,13 35:15 36:4,7 36:12 37:9,18 37:22 38:1,6 38:16,20 39:4 39:10,13 <b>Nope</b> 27:7 <b>normal</b> 41:1 <b>note</b> 12:1 <b>noted</b> 42:7
<b>I</b>	<b>K</b>			
<b>idea</b> 12:16 <b>identification</b> 7:10 9:10 31:21 <b>identified</b> 19:2,5 <b>identify</b> 7:12 9:12 11:9 <b>in-person</b> 35:22	<b>Katella</b> 2:19 <b>keep</b> 6:20,25 <b>Kelly</b> 3:4 39:16 <b>kind</b> 12:11 17:13 21:11,14 27:3 27:6 <b>knew</b> 15:19 20:18 <b>know</b> 6:17 7:21 10:23 14:17,20			

<b>notice</b> 4:8 7:14 7:22 8:2,7 <b>November</b> 1:17 2:19 5:1 <b>Nowels</b> 3:5 40:8 <b>number</b> 19:17 <b>numbering</b> 30:9	18:15 <b>once</b> 14:10 36:6 36:6 <b>ones</b> 11:20 <b>opened</b> 13:10 28:10 <b>opening</b> 14:14 <b>operating</b> 31:9 <b>opinion</b> 39:6 <b>Orange</b> 2:20 3:6 5:2 12:2 37:10 38:17 40:14 <b>organization</b> 32:21 <b>original</b> 13:2 40:18 <b>originally</b> 23:22 24:5,9 <b>originated</b> 32:12 <b>outside</b> 19:10 31:16 35:23 36:15 38:24,24 38:25 <b>owned</b> 28:14,19 <b>ownership</b> 28:22 29:22 <b>Ox</b> 15:15,18,19 15:22 16:2,6 16:12,23	<b>part</b> 7:20 19:3 <b>particular</b> 32:7 <b>partners</b> 31:13 <b>partnership</b> 13:19 27:6 <b>PATENT</b> 1:2 2:1 <b>PC</b> 3:4 <b>penalty</b> 42:1,5 <b>people</b> 28:7 30:17 <b>Perfect</b> 40:3 <b>period</b> 35:6 <b>perjury</b> 42:1,5 <b>person</b> 12:20 14:14 36:2 <b>personal</b> 24:8,25 <b>personally</b> 15:21 18:23 19:1,4 33:12 37:8,14 <b>Petitioner</b> 1:7 2:6 3:3 <b>petitioner's</b> 9:14 <b>Pfeiffer</b> 3:4 9:5 10:18,22,25 11:4 19:20,22 24:16,19 26:16 28:11 29:2,7,9 31:15 34:11 35:23 36:14,24 37:1,3 39:18 39:24 40:3 <b>photo</b> 20:14 <b>piece</b> 17:12 <b>place</b> 14:15 16:8 17:11 39:25,25 43:10 <b>places</b> 17:1 <b>plans</b> 17:11,25 <b>please</b> 5:17 7:6 7:13 9:2,13 20:10 <b>pleasure</b> 6:1 <b>plots</b> 17:8 <b>post</b> 20:10 21:8 <b>posts</b> 21:1 <b>potential</b> 16:18	17:21 31:13 <b>potentially</b> 16:25 26:4 <b>preparation</b> 8:16 11:16,19 <b>preparing</b> 9:25 <b>president</b> 26:22 32:16 <b>presume</b> 8:13,14 <b>previously</b> 10:15 24:2 <b>prior</b> 20:18 <b>privilege</b> 34:23 <b>proceeding</b> 5:25 34:17 43:9,12 <b>proceedings</b> 34:12 40:19,22 43:15 <b>produce</b> 40:18 <b>produced</b> 40:25 <b>properly</b> 5:23 <b>properties</b> 16:19 <b>property</b> 17:12 <b>provide</b> 13:17,22 13:24 33:22 <b>provided</b> 33:25 <b>pull</b> 7:6 10:14 <b>purchase</b> 17:5 17:12 <b>purpose</b> 34:23 35:2 <b>purposes</b> 40:15 <b>put</b> 19:12 39:24 39:25	<b>read</b> 33:17 42:5 <b>reading</b> 15:13 <b>real</b> 17:7 <b>really</b> 17:19 24:12 <b>reasoning</b> 27:11 <b>reattach</b> 11:3 <b>recall</b> 25:2 <b>receipt</b> 41:2 <b>record</b> 5:17 7:13 9:12 11:9 19:22,24 34:14 40:8,9 <b>recorded</b> 43:12 <b>recording</b> 6:9 <b>redacted</b> 40:22 <b>redactions</b> 21:18 <b>redirect</b> 39:17 <b>redo</b> 16:4 <b>refer</b> 14:20 28:1 <b>referencing</b> 8:20 <b>referring</b> 8:18 14:10 20:13,14 20:21 24:4,22 25:19 26:8 27:19 35:18 38:17 <b>refrain</b> 6:10 <b>refresh</b> 8:18 <b>Reg</b> 1:8 2:7 <b>regard</b> 13:25 39:6 <b>regarding</b> 17:21 35:12 38:6 <b>related</b> 20:15,16 <b>relation</b> 25:3 <b>released</b> 40:12 <b>relevant</b> 35:5 <b>relieved</b> 40:10 <b>remember</b> 14:25 15:10 23:12 24:17 28:8 38:4,13 <b>remembered</b> 13:1 <b>rent</b> 17:5 <b>repeat</b> 16:3
<hr/> <b>O</b> <hr/>				
<b>O-x</b> 15:15 <b>objection</b> 6:25 24:19 26:16 31:15 35:23 36:14 <b>objections</b> 6:24 43:11 <b>observed</b> 15:21 37:14 <b>obtained</b> 31:9,13 <b>obviously</b> 32:17 <b>occasion</b> 6:23 <b>occasionally</b> 6:17 <b>offer</b> 17:5 35:16 <b>offered</b> 36:19 <b>office</b> 1:2 2:1 34:19 <b>offices</b> 40:12 <b>official</b> 22:4,6,9 22:12,16,18,21 <b>officially</b> 28:16 28:18 36:9 <b>Oh</b> 11:4 29:9 30:12 35:4 38:9 <b>Ohio</b> 3:12 <b>Okay</b> 5:16,22 6:6,22 8:6,10 8:12 9:1,25 11:4 12:8,11 13:13 14:13 15:24 25:7 29:15 31:20 32:14 33:4 34:11,22 37:24 38:20 39:19 <b>old</b> 15:10 18:9	<hr/> <b>P</b> <hr/>			
	<b>p.m</b> 20:6 30:11 <b>page</b> 4:2 9:22 12:1 14:7 19:16 20:2,3 21:22 23:7,14 23:14 25:5 28:25 29:7,8,8 29:9 30:4,8,9 31:19,22,24 32:3 36:24,25 <b>pages</b> 31:23 <b>paragraph</b> 12:1 12:15 13:1 14:8 15:25 16:5 18:7 23:20 37:7,25		<hr/> <b>Q</b> <hr/>	
			<b>question</b> 6:18 16:3,4 21:17 28:12 35:1 <b>questioning</b> 36:15 <b>questions</b> 6:8 19:14 31:16 39:9,18 <b>quick</b> 34:8	
			<hr/> <b>R</b> <hr/>	

<b>Reported</b> 1:22	5:4,18 42:15	38:23	8:6 14:25	31:22 39:16
<b>reporter</b> 2:17		<b>speculate</b> 14:23	19:15,21 27:25	40:2
5:7 7:6 9:2	<b>S</b>	<b>speculating</b>	34:9	<b>thinks</b> 24:22
10:14,25 11:2	<b>S</b> 4:6	24:21	<b>sworn</b> 5:6	<b>three</b> 12:2,5
40:10 43:3,7	<b>Sarah</b> 3:5	<b>spills</b> 32:3,7		<b>Thursday</b> 1:17
<b>represent</b> 14:3	<b>says</b> 7:14 8:1,4	<b>split</b> 31:23	<b>T</b>	2:19 5:1
<b>representation</b>	30:16	<b>spoken</b> 37:18,21	<b>T</b> 4:6	<b>time</b> 15:6,7,20
34:18	<b>scope</b> 31:16	<b>stack</b> 10:12,15	<b>taco</b> 1:9 2:8 5:24	17:20 24:13
<b>representatives</b>	35:23 36:15	11:23	8:7 18:24	26:25 27:12
37:22	<b>searches</b> 18:20	<b>stand-alone</b>	23:22 24:1,5	28:2,9,14
<b>request</b> 14:24	<b>second</b> 8:21	17:17 31:6	24:10 28:9,14	30:10 41:1
<b>research</b> 18:8,14	19:20,23 28:24	<b>standpoint</b>	28:18 29:19,23	43:10,12
18:19 19:2,5	29:18	27:17 28:6	30:2,17 37:11	<b>times</b> 36:1
28:18	<b>see</b> 15:20 19:19	<b>start</b> 12:17	37:18,21	<b>tips</b> 13:17,25
<b>respect</b> 23:9	25:8 28:3 29:6	<b>starting</b> 12:1	<b>Taco's</b> 24:12	27:14 35:20
<b>respondent</b> 1:10	29:19	<b>state</b> 2:18 5:16	25:3 39:4	<b>today</b> 6:6 8:17
2:9,16 3:9 5:6	<b>seen</b> 7:16 8:10	12:15 16:5	<b>Tacos</b> 37:15	8:24 11:16,19
5:25	9:20	19:8,10 21:19	<b>take</b> 7:23 8:7	34:24
<b>Respondent's</b>	<b>sent</b> 24:13 25:13	22:3 25:16	11:25 14:15	<b>told</b> 28:17 38:14
4:7 7:9 9:9	<b>sentence</b> 16:16	38:25 42:11	28:2,2 34:8	<b>top</b> 14:18 21:25
<b>responding</b> 6:18	29:18 32:15	43:8	<b>taken</b> 2:16 6:4,8	<b>trademark</b> 1:2,3
<b>response</b> 6:13	<b>served</b> 8:7 24:5	<b>stated</b> 14:19	33:15 34:13	2:1,2 23:6,10
<b>restaurant</b> 12:9	<b>set</b> 9:1 43:10	<b>states</b> 1:2 2:1	43:9	28:10,15,22
12:12 13:10	<b>SHOHL</b> 3:10	23:21 27:15	<b>talk</b> 8:23 17:18	33:5,10,15,18
14:15 15:3,14	<b>short</b> 34:12	37:8	35:13,15	<b>transcribed</b>
16:7,19 17:17	<b>Shorthand</b> 2:17	<b>stating</b> 13:21	<b>talked</b> 16:24	43:13
17:22 18:1	5:7 43:3,7	<b>stenographica...</b>	17:16 36:2,6	<b>transcript</b> 40:12
31:6 38:1,7,17	<b>shoulder</b> 6:11	43:13	<b>tells</b> 23:5	40:21,25 42:6
<b>restaurants</b> 12:2	<b>shrugging</b> 6:10	<b>Stephanie</b> 1:23	<b>testified</b> 5:8 37:8	43:14
12:5 20:25	<b>side</b> 7:7,23 18:22	2:17 43:21	<b>testimony</b> 4:9	<b>TRIAL</b> 1:3 2:2
21:3,5 28:8	<b>sign</b> 13:19,21	<b>stipulated</b> 41:3	9:6,14 24:20	<b>trouble</b> 5:20
<b>review</b> 8:17	<b>signature</b> 9:22	<b>stipulating</b>	30:22 42:8	<b>truck</b> 17:16,18
40:15 41:2	<b>signed</b> 7:17,18	40:24	43:11	30:19 31:5
<b>reviewed</b> 11:15	7:19,20	<b>stipulation</b>	<b>text</b> 23:25	<b>trucks</b> 30:17
11:18,22 40:25	<b>sir</b> 9:16,18	39:25 40:5,9	<b>Thank</b> 5:22 7:3	<b>true</b> 32:23 42:9
<b>right</b> 5:12 14:6	<b>site</b> 20:11,21	<b>stop</b> 6:19	8:12 14:6	43:14
15:2 17:12	21:11	<b>street</b> 3:11 15:20	15:24 25:7	<b>try</b> 30:18
21:22 34:8	<b>sold</b> 24:10,15	16:23 17:8,9	31:2,8 39:19	<b>Tuesday</b> 25:8
37:1,7 39:19	<b>sorry</b> 9:17 10:6	<b>stuff</b> 35:18	39:21,23	<b>turn</b> 19:13 20:2
<b>rights</b> 29:19 30:1	11:17 17:1	<b>subscribed</b>	<b>thereof</b> 43:15	20:3 21:22
<b>Riverside</b> 13:2	21:4 28:11	43:16	<b>thing</b> 17:8 18:21	25:5 31:18
16:24 17:3	38:11	<b>substance</b> 33:7	29:2	<b>Turning</b> 19:16
19:7 24:2	<b>sort</b> 17:8 18:21	<b>Suite</b> 2:20 3:6,11	<b>things</b> 23:12	23:14
37:10 38:4,15	27:15 28:4	40:14	35:4,5,12,13	<b>twice</b> 36:6
38:18,19	35:19	<b>supplied</b> 34:4	35:14 36:5	<b>two</b> 10:13,16
<b>Rob</b> 4:9	<b>sounds</b> 40:2	<b>supply</b> 17:24	<b>think</b> 7:7 9:3	31:16,23 39:9
<b>Robert</b> 1:16 2:16	<b>speak</b> 6:21 18:23	<b>sure</b> 6:12,13,15	10:12,16 30:16	<b>type</b> 36:19

<b>U</b>	<b>wasn't</b> 17:6,6 22:11	<b>Yep</b> 10:9	<b>1995</b> 38:1,7	<b>7</b>
<b>Uh-huh</b> 20:7 30:24	<b>way</b> 5:19	<b>Z</b>	<b>2</b>	<b>7</b> 4:8
<b>undersigned</b> 43:7	<b>we'll</b> 6:20,25 8:20 40:20	<b>Ziebarth</b> 1:6 2:5 6:1 8:13 11:13	<b>2</b> 12:15 14:7 43:17	<b>7:13</b> 20:6
<b>understand</b> 24:1	<b>we're</b> 6:6 7:7 8:8 10:12 11:5	12:6,9,12,16 14:4,9,14	<b>20</b> 42:10	<b>714</b> 3:7
<b>understanding</b> 24:6,8 26:13 29:22	40:24	16:17 17:16,24 18:11,17 20:8	<b>2009</b> 12:18 13:18 19:18 20:6	<b>8</b>
<b>Understood</b> 24:23	<b>we've</b> 35:18 40:9	20:18,24 21:8 21:12,15 22:1	<b>2010</b> 12:18 13:19 14:9,16,16	<b>8:32</b> 29:5
<b>UNITED</b> 1:2 2:1	<b>Web</b> 21:11	23:4,9,18	15:7 16:16,17 18:5 22:1,10	<b>9</b>
<b>update</b> 35:16	<b>Wednesday</b> 20:5	24:22 25:14	22:12 23:17	<b>9</b> 4:9 19:18 20:5 25:5,8,11
<b>use</b> 10:13 17:25 23:5 33:9 39:4	<b>week</b> 15:1	26:4,21 27:1	24:14 25:8,11	<b>9:19</b> 25:8
	<b>well-known</b> 28:7	27:22 29:16,24 30:6,13 31:3,9	26:14 29:5	<b>9:24</b> 2:18 5:1
	<b>went</b> 19:6	32:6,21 33:5 34:5 35:10	30:5 31:8,12	<b>92053501</b> 1:9 2:8
	<b>whatsoever</b> 27:7	36:11 39:14 40:6	31:24 32:20 33:20 35:9,11	<b>92865</b> 3:6 40:15
	<b>whereof</b> 43:16	<b>Ziebarth's</b> 22:7 22:22 33:23 34:1	<b>2011</b> 22:15 32:23 <b>2012</b> 22:18 32:25 <b>2013</b> 1:17 2:19 5:1 33:2 43:17	<b>977-8527</b> 3:12
	<b>witness</b> 5:5 7:8 9:3,8 10:17,21 10:24 24:17	<b>0</b>	<b>203</b> 3:6 40:14 <b>21</b> 1:17 2:19 5:1 <b>255</b> 3:11 <b>260</b> 2:20 <b>27th</b> 22:1 <b>288-2826</b> 3:7	
<b>V</b>	26:19 36:1 37:2 39:21 40:16 41:1 43:16	<b>1</b>	<b>3</b>	
<b>vague</b> 17:10,13	<b>wording</b> 10:8	<b>1</b> 12:1,1 29:8,13 30:9	<b>3</b> 9:22 14:8 15:25 16:5 18:7 19:16 20:2,3,3 36:25	
<b>various</b> 19:1	<b>words</b> 10:5	<b>1,043,729</b> 1:8 2:7	<b>30</b> 41:2	
<b>varying</b> 30:23	<b>work</b> 30:16	<b>10</b> 31:22,24	<b>4</b>	
<b>venture</b> 12:12 20:16,19 21:15 22:7,13,22 23:2 25:25 26:11,15 27:1 31:13 33:23 34:1,6 35:12 35:15 36:4,12 39:10,14	<b>works</b> 16:4	<b>10:07</b> 30:11,12 <b>10:22</b> 41:6 <b>11</b> 30:11 31:19 32:3 <b>1122</b> 3:6 40:13 <b>11th</b> 30:5 <b>12</b> 4:8 7:7,7,9 29:5 <b>128</b> 2:19 <b>12893</b> 1:23 2:18 43:21 <b>13</b> 4:9 9:3,4,9 36:23,24,25 <b>1900</b> 3:11 <b>1990s</b> 37:9 <b>1994</b> 38:1,7	<b>4</b> 37:25 <b>45202</b> 3:12 <b>4th</b> 31:24 32:11	
	<b>wraps</b> 39:16	<b>0</b>	<b>5</b>	
	<b>writing</b> 16:14	<b>1</b>	<b>5</b> 4:3 21:22 <b>513</b> 3:12 <b>5th</b> 23:17	
	<b>written</b> 13:21,24	<b>1</b>	<b>6</b>	
	<b>wrote</b> 10:5,7 29:15	<b>1</b>	<b>6</b> 23:14	
	<b>X</b>	<b>1</b>		
	<b>X</b> 4:1,6	<b>1</b>		
	<b>Y</b>	<b>1</b>		
	<b>yeah</b> 7:17 8:4,11 9:8 10:18 11:20 19:6 21:6 24:17 25:2,6 26:19 28:3 29:1,11 32:12 34:21 36:6 39:1	<b>1</b>		
<b>VP</b> 32:17	<b>year</b> 22:15	<b>1</b>		
<b>vs</b> 1:8 2:7	<b>years</b> 8:19	<b>1</b>		
<b>W</b>		<b>1</b>		
<b>want</b> 8:6 14:22 24:25 26:14 39:17,24		<b>1</b>		
<b>wanted</b> 8:7 13:13		<b>1</b>		
<b>wants</b> 25:16 26:7		<b>1</b>		

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK TRIAL AND APPEAL BOARD

CHRISTIAN M. ZIEBARTH,

Petitioner,

vs.

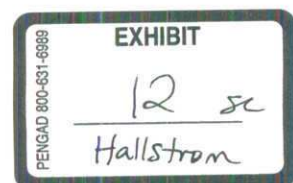
DEL TACO LLC

Respondent.

Reg. No. 1,043,729  
Cancellation No. 92053501

**AMENDED NOTICE OF CROSS-EXAMINATION DEPOSITION  
OF CHARLES ROBERT HALLSTROM**

Pursuant to the Stipulation Entered into by the Parties and Filed with the Board on October 4, 2013 (Doc No. 56) (hereinafter "Stipulation"), Respondent Del Taco LLC ("Del Taco"), by its counsel, hereby gives Notice that it will take live cross-examination of Charles Robert Hallstrom for use as authorized by the Federal Rules of Civil Procedure and the Trademark Rules of Practice in response to his affidavit filed with the Board on October 15, 2013 (Doc No. 59). Such live cross-examination shall be conducted via video before a Notary Public or some other officer authorized by law to administer an oath at a date and time as mutually agreed upon by the parties within ten (10) days of this Notice of Cross-Examination Deposition pursuant to the Stipulation.



Dated: **November 1, 2013**

*/ April L Besl /*

April L. Besl  
Joshua A. Lorentz  
DINSMORE & SHOHL LLP  
255 East Fifth Street  
Cincinnati, Ohio 45202  
(513) 977-8527-direct  
(513) 977-8141-fax  
april.besl@dinslaw.com

*Attorneys for Respondent  
Del Taco LLC*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing was sent by certified first-class mail, with courtesy copy via email, on this 1st day of November, 2013, to Kelly K. Pfeiffer, Amezcua-Moll Associations PC, Lincoln Professional Center, 1122 E. Lincoln Ave. Suite 203, Orange, CA 92865.

*/ April L Besl /*

April L Besl

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Registration No. 1043729  
Date of Registration: July 13, 1976

---

CHRISTIAN M. ZIEBARTH  
Petitioner,

Cancellation No.: 92053501

v.

DEL TACO, LLC  
Registrant.

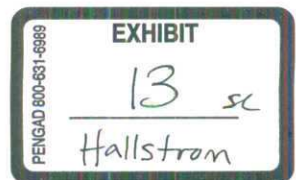
---

Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513

**PETITIONER'S TESTIMONY AFFIDAVIT OF ROB HALLSTROM**

I, Rob Hallstrom, swear as follows:

1. My full name is Charles Robert Hallstrom. I am the owner of a public relations and marketing agency named 714 Media located at 111a North Harbor Boulevard, Fullerton, California 92832. 714 Media specializes in the restaurant industry. I also co-own three restaurants in Orange County, California. I have personal knowledge of the facts stated herein.
2. Petitioner CHRISTIAN M. ZIEBARTH ("Mr. Ziebarth") first approached me with the idea to start up a NAUGLES food business in approximately late 2009 or early 2010. In January of 2010, Mr. Ziebarth first inquired if I would be willing to help him make this idea of opening restaurants under the NAUGLES name a reality. I remembered NAUGLES very well, having grown up right by the original location in Riverside, California, and was interested in helping. Attached hereto as Petitioner's Exhibit H (already designated as such in Petitioner's Testimony





Affidavit of Christian Ziebarth) are true and correct copies of email exchanges between Mr. Ziebarth and me, reflecting a few of our numerous discussions about opening up restaurants under the NAUGLES mark. These emails date back to December 9, 2009. As seen on pages 1, 2 and 3 of Exhibit H, Mr. Ziebarth wrote to me on January 4, 2010 and asked, "Rob, does your group have any interest in helping a new restaurant open? I stumbled into something like an opportunity that I am quite sure would be very profitable and am trying to find the right people to help pull it off. I'll give more details if interest is shown. For now I will say that it's actually kind of a fast-food concept or maybe a blend between fast food and fast casual." On the same date, January 4, 2010, I replied, "There is always an interest. Please let me know when you can share more info and we can discuss further." Mr. Ziebarth, once again, wrote to me on that date, stating, "Do you remember the old Naugles chain?"

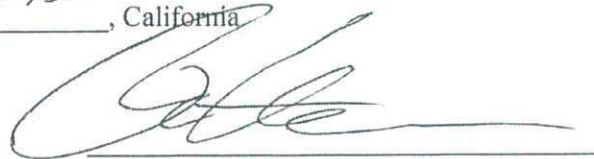
3. After this email exchange with Mr. Ziebarth in January 2010, I had meetings in person with him about opening NAUGLES restaurants. We first talked about it in person at one of my restaurants: Matador Cantina in Fullerton, California. At that time, I was aware of a building not too far from there that I remembered being a old NAUGLES location. I am informed and believe that it is now a restaurant called the Golden Ox. Mr. Ziebarth and I had a subsequent meeting at the Golden Ox in Fullerton, California. I am informed and believe that customers of the Golden Ox have commented how the restaurant used to be a place called NAUGLES. Between January 2010 and May 2010, Mr. Ziebarth and I also had many more discussions about potential locations for his NAUGLES restaurants, and we looked at a few properties. We also did a little research into old NAUGLES locations.



4. I can also personally testify to the fact that, in the early 1990's, the NAUGLES locations I had personally been to before in Orange County and Riverside, California were now only known as "Del Taco." I am informed and believe the very last NAUGLES restaurant closed in 1994 or 1995.

I, Rob Hallstrom, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 35 U.S.C. 25 and 18 U.S.C. 1001 of the United States Code, and that such willful false statements may jeopardize the validity of the foregoing statements, declare that all statements are made of my own knowledge and are true, and all statements made on information and belief are believed to be true.

Executed on October 14, 2013 in FULLERTON, California



Rob Hallstrom

CHARLES ROBERT HALLSTROM

State of California

County of Orange

Subscribed and sworn to (or affirmed) before me on this 14<sup>th</sup> day of Oct., 2013, by Charles Robert Hallstrom who provided to me on the basis of satisfactory evidence to be the person who appeared before me.

(seal)

Signature: 

